

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**UNITED STATES OF AMERICA,**

**v.**

**GREGORY CUNNHINGHAM,**

**Defendant.**

---

**1:10-cr-511-WSD**

**ORDER**

This matter is before the Court on Magistrate Gerrilyn G. Brills's Report and Recommendation (the "R&R") [14] on Defendant Gregory Cunningham's ("Defendant") consent to appear before Judge Brill to enter his plea of guilty to Count One of the indictment returned against Defendant. Magistrate Judge Brill, after conducting her inquiry pursuant to Rule 11 of the Federal Rules of Criminal Procedure and after cautioning and examining Defendant under oath concerning each of the matters set out in Rule 11, including those set out in Rule 11(b)(1), recommends that Defendant's plea of guilty to Count One of the Indictment be accepted, that Defendant be adjudged guilty of Count One, and that Defendant be sentenced for committing the offense alleged in Count One.

## **I. STANDARD OF REVIEW**

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject or modify a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Rule 59 of the Federal Rules of Criminal Procedure; Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). A district judge "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This requires that the district judge "give fresh consideration to those issues to which specific objection has been made by a party." Jeffrey S. v. State Bd. of Educ. of Ga., 896 F.2d 507, 512 (11th Cir. 1990) (internal citations omitted). With respect to those findings and recommendations to which objections have not been asserted, the Court must conduct a plain error review of the record. United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983), cert. denied, 464 U.S. 1050 (1984). Defendant has not filed objections to the R&R.

## **II. DISCUSSION**

The Court reviews the R&R and its findings and recommendations for plain error. Having reviewed the R&R, the Court finds that Defendant adequately was

advised of his rights and a proper inquiry was made into and about of the matters set out in Rule 11 of the Federal Rules of Criminal Procedure including those set forth in Rule 11(b)(1). The Court further finds that Defendant entered a knowing and voluntary plea of guilty to Count One of the Indictment.


### **III. CONCLUSION**

Accordingly,

**IT IS HEREBY ORDERED** that Defendant's plea of guilty to Count One of the Indictment is accepted and it is entered.

**IT IS FURTHER ORDERED** that Defendant Gregory Cunningham is adjudged **GUILTY** of the offense charged in Count One of the Indictment.

**SO ORDERED** this 9th day of March, 2011.

  
\_\_\_\_\_  
WILLIAM S. DUFFEY, JR.  
UNITED STATES DISTRICT JUDGE